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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/522,484 03/10/00 MECHACHE

S 1304.72US02

EXAMINER

024113 PM82/0328
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MINNEAPOLIS MN 55402-2100

TRETTEL, M ART UNIT	PAPER NUMBER
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3628
DATE MAILED:

03/28/01

#42

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/522,484

Applicant(s)

MECHACHE, SUSAN

Examiner

Michael Trettel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-13 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 6-9, 14-17 and 22-25 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Drawings

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "18" and "19" have both been used to designate the topper pad. Correction is required.

Specification

The use of the trademark Velcro has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magnusson in view of Walker (4,890,344). Magnusson shows a knockdown mattress assembly

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that comprises a continuous border wall 14 that includes an outer side 16, a top 18, and a bottom 20. A pair of mattress assemblies as shown in Figure 6 can be placed within the perimeter defined by the border wall 14. A cover that includes a removable pillow top 36 can be used to enclose the mattress pads within the border and is attached to the border wall by a fastener 30. As shown in Figure 3 a removable foam topper pad 40 that extends across the mattress pads and onto the border wall can be placed under the pillow top. Magnusson discloses that the mattress pads can be made inflatable, however no disclosure is made concerning the possibility of making the pads adjustably inflatable. Walker teaches that it is well known in the mattress art to make a mattress that includes a pair of separately inflatable mattress pads retained within a border that is quite similar to the mattress assembly shown by Magnusson. In the Walker mattress the mattress pads are independently inflatable and can their pressure set by means of a pump and control unit that is exterior of the mattress. This allows each user of the mattress to independently set the support offered by his/her mattress pad. Because of this it would have been obvious to the skilled artisan to use a pair of separate and adjustably inflatable mattress pads with a pump and control unit as taught by Walker within the overall mattress assembly shown by Magnusson.

Claims 3 to 5, 10 to 13, and 18 to 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magnusson in view of Walker as applied to claim 1 above, and further in view of Boyd. Boyd teaches that a composite mattress system similar to the Magnusson mattress can include a side wall and bottom assembly that forms a foam cavity 19. The cavity includes integrated side walls 21 that enclose removable mattress pad elements that combine with the base layer of the cavity to form the total height of the mattress assembly. The unitary cavity assembly

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is cheaper and easier to fabricate than the spring border assembly 24 used in the Magnusson mattress assembly, in addition the Boyd mattress use's a completely removable cover assembly 23 that can be separated from the mattress assembly for cleaning if needed. Because of this it would have been obvious to the skilled artisan to have replaced the spring border/integrated cover assembly as used within the Magnusson mattress with a foam cavity and separable cover as taught by Boyd.

Allowable Subject Matter

Claims 6 to 9, 14 to 17, and 22 to 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walker (4,991,244), Shoenhair, Dotson, Eady, and Young et al show composite mattress assemblies that are of particular interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry Melius, can be reached on (703) 308-2171. The fax phone number for the organization where this application or proceeding is assigned is 703-308-3687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.


Michael Trettel
Primary Examiner
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